

KPO/2012R00641

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon.
v. : Crim. No. 15-
PATRICK ELFERS : 18 U.S.C. § 371

INFORMATION

The United States Attorney for the District of New Jersey charges:

BACKGROUND

1. At all times relevant to this Information unless otherwise indicated:

The Defendant

a. Defendant PATRICK ELFERS (hereinafter, “defendant ELFERS”) resided in or around Jersey City, New Jersey.

Co-Conspirators

b. A co-conspirator, not named as a defendant herein (hereinafter, “CC1”), resided in or around Ravenswood, West Virginia.

The Lacey Act

c. The Lacey Act, 16 U.S.C. § 3371 *et seq.*, prohibited the sale, purchase of, the offer of sale or purchase of, and the intent to sell or purchase, wildlife in interstate commerce, with a market value in excess of \$350, that had been taken, possessed, transported, or sold in violation of any law or regulation of any State.

New Jersey State Law

d. New Jersey's Endangered and Nongame Species Conservation Act (hereinafter, the "Act") prohibited the taking, possession, transportation, exportation, sale or offer for sale, or shipment of any non-game species, including the Spotted Turtle (*Clemmys guttata*), the North American Wood Turtle (*Glyptemys insculpta*), and the Eastern Box Turtle (*Terrapene carolina carolina*), among other turtle species. New Jersey Department of Environmental Protection's Division of Fish and Wildlife (hereinafter, "Division of Fish and Wildlife") designated the North American Wood Turtle as a "threatened" species because it was already vulnerable and could become "endangered." The Spotted Turtle and Eastern Box Turtle were listed as "species of special concern." See N.J.S.A. § 23:2A-6.

e. The regulations promulgated under the Act carved out an exception to the prohibition on possession for individuals who had been issued a hobby permit by the Division of Fish and Wildlife. See N.J.A.C. § 7:25-4.2.

CONSPIRACY

2. From in or about December 2011 through in or about March 2014, in Hudson County in the District of New Jersey and elsewhere, defendant

PATRICK ELFERS

did knowingly and intentionally conspire and agree with CC1, and others, to sell, and offer for sale, turtles in interstate commerce, with a market value in excess of \$350, which had been possessed without the required permit under

New Jersey State law, contrary to Title 16, United States Code, Sections 3372(a)(2)(A) and 3373(d)(1)(B).

Object of the Conspiracy

3. The object of the conspiracy was to purchase or otherwise acquire New Jersey State-protected turtles and sell them over the internet to prospective purchasers, including purchasers residing outside the State of New Jersey.

Manner and Means

4. It was a part of the conspiracy that defendant ELFERS purchased, or otherwise acquired, from CC1 and others, Spotted Turtles, North American Wood Turtles, and Eastern Box Turtles, among other species of turtles (hereinafter, the "Protected Turtles").

5. It was further a part of the conspiracy that defendant ELFERS housed the Protected Turtles at his residence in Jersey City, New Jersey, without the required New Jersey State permit.

6. It was further a part of the conspiracy that defendant ELFERS offered the Protected Turtles for sale on wildlife trade websites.

7. It was further a part of the conspiracy that defendant ELFERS shipped the Protected Turtles to purchasers out of state by tying them inside tube socks, so as to restrict their movement, and packing the socks in boxes that were neither designed nor appropriate for the shipment of live animals.

Overt Acts

8. In furtherance of the conspiracy and to effect its unlawful object, defendant ELFERS, CC1, and others, committed, and caused to be committed, the following overt acts, among others, in the District of New Jersey and elsewhere:

a. In or about May 2012, defendant ELFERS housed two Spotted Turtles at his residence in Jersey City, New Jersey, without the required New Jersey State permit.

b. On or about May 15, 2012, defendant ELFERS offered for sale two Spotted Turtles on a wildlife website for \$450.

c. On or about May 18, 2012, defendant ELFERS sold two Spotted Turtles to an individual who provided him with a New York State address.

d. On or about May 31, 2012, defendant ELFERS transported the two Spotted Turtles, referenced above in Paragraph 8c, by tying them inside tube socks and shipping them via commercial carrier to an address in New York State.

e. In or about June 2012, defendant ELFERS purchased Eastern Box Turtles from CC1 and from others.

f. In or about June 2012, defendant ELFERS housed three Eastern Box Turtles at his residence in Jersey City, New Jersey, without the required New Jersey State permit.

g. On or about June 18, 2012, defendant ELFERS offered for sale two Eastern Box Turtles on a wildlife trade website.

h. On or about July 2, 2012, defendant ELFERS sold the three Eastern Box Turtles, referenced above in Paragraph 8f, to an individual who provided him with a New York State address.

i. On or about July 11, 2012, defendant ELFERS shipped the three Eastern Box Turtles, referenced above in Paragraph 8f, by tying them inside tube socks and shipping them via commercial carrier to an address in New York State.

In violation of Title 18, United States Code, Section 371.

FORFEITURE ALLEGATION

1. As a result of committing the conspiracy to violate the Lacey Act offense alleged in this Information, defendant ELFERS shall forfeit to the United States, pursuant to 16 U.S.C. § 3374 and 28 U.S.C. § 2461(c), any and all wildlife imported, exported, transported, sold, received, acquired, or purchased contrary to the provisions of 16 U.S.C. § 3372, and the regulations issued pursuant thereto, namely,

- a. 27 Eastern Box Turtles;
- b. 1 Florida Box Turtle;
- c. 3 Three-toed Box turtles;
- d. 5 Gulf Coast Box Turtles;
- e. 4 North American Wood Turtles;
- f. 1 Desert Tortoise; and
- g. 12 Dead/Decayed Turtle Shells (Miscellaneous Species).

Substitute Assets Provision

2. If any of the forfeitable property described above, as a result of any act or omission of defendant ELFERS:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.



PAUL J. FISHMAN
UNITED STATES ATTORNEY

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PATRICK ELFERS

INFORMATION FOR

18 U.S.C. § 371

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